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RETURN TO:  
LAWYERS TITLE INSURANCE COMPANY  
6363 Poplar Ave. - Suite 108  
Memphis, TN 38119  
File # 453783 Attn. Phyllis

P BK 93 PG 104

STATE MS. - DESOTO CO.  
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W.E. DAVIS CH. CLK.]

**ABSOLUTE ASSIGNMENT OF LEASES AND RENTS**

**FROM**

**CC DESOTO CLINIC, LLC, JAMES L. HIGHSMITH, JR., KATHRYN H.  
HIGHSMITH, PAHL DAVIS, SHANNON DAVIS, AND WATSON P. REA**

**TO**

**NATIONAL LIFE INSURANCE COMPANY**

Dated 2-21, 2002

Recording requested by and  
after recording please return to:  
Francis J. von Turkovich, Esq.  
National Life Insurance Company  
One National Life Drive  
Montpelier, Vermont 05604

## ABSOLUTE ASSIGNMENT OF LEASES AND RENTS

THIS ABSOLUTE ASSIGNMENT OF LEASES AND RENTS (this "Assignment of Leases") is made as of February 21, 2002, by CC DeSoto Clinic, LLC, a Tennessee limited liability company, with a principal place of business at 2636 Elm Hill Pike, Suite 200, Nashville, Tennessee 37214, James L. Highsmith, Jr., Kathryn H. Highsmith, Pahl Davis, Shannon Davis, and Watson P. Rea ("**Borrower**"), NATIONAL LIFE INSURANCE COMPANY, a Vermont corporation, having an address of One National Life Drive, Montpelier, Vermont 05604 ("**Lender**").

### RECITALS

A. Borrower has applied to Lender for a mortgage term loan in the principal amount of Three Million Eight Hundred Seventy Eight and No/100 Dollars (\$3,878,000.00) (the "**Loan**"), and Lender has issued its commitment dated May 25, 2001 as revised in that certain Amendment to Commitment dated June 4, 2001, in which Lender has agreed to make the Loan to Borrower upon certain terms and conditions.

B. The Loan is evidenced by a Promissory Note of on or near even date from Borrower to Lender (the "**Note**"), and secured by, among other things, a Mortgage, Assignment of Leases and Security Agreement of even date from Borrower in favor of Lender (the "**Mortgage**") encumbering the Land described in Exhibit A attached hereto, and certain other Property of the Borrower as described in the Mortgage.

C. Lender and Borrower have entered into a Loan Agreement of even date in connection with the Loan (the "**Loan Agreement**").

D. Lender is not willing to make the Loan to Borrower unless Borrower assigns all right, title and interest of Borrower in and to all leases and occupancy agreements affecting the Property and the rents and profits generated by the Property as additional collateral for the Loan.

NOW, THEREFORE, to induce Lender to enter into the Loan, Borrower agrees as follows:

### ARTICLE 1

#### DEFINITIONS AND RULES OF CONSTRUCTION

1.1 Definitions. Terms with initial capital letters used in this Assignment of Leases, but not defined in this Assignment of Leases, have the meanings ascribed to such terms in the Loan Agreement. All definitions set forth in the first paragraph or in the Recitals of this Assignment of Leases are incorporated into this Section 1.1.

9 BK 93 PG 106

1.2 Construction and Interpretation. The provisions of Section 1.2 of the Loan Agreement with respect to construction and interpretation of the Loan Documents are incorporated in this Assignment of Leases by reference, and will be applied to this Assignment of Leases.

## ARTICLE 2

### ASSIGNMENT OF LEASES

2.1 Absolute Assignment of Leases and Rents. In consideration of the Loan and Lender's undertakings pursuant to the Loan Agreement, and in order to secure the payment of the Indebtedness evidenced by the Note, and any and all extensions and renewals thereof, Borrower hereby absolutely and presently assigns and transfers to Lender, its successors and assigns, all of Borrower's right, title, interest and privileges in and to the following:

2.1.1 All Leases, now existing or hereafter created affecting the Property.

2.1.2 All Rents, it being the intention of Borrower that this Assignment of Leases constitutes a present, absolute assignment of the Leases and the Rents and not an assignment for additional security only.

2.2 Absolute Assignment. This Assignment of Leases presently gives Lender the right to collect the Rents and apply the Rents in partial payment of the Note. Borrower intends that the Leases and Rents be absolutely irrevocably and unconditionally assigned and that they no longer be, during the term of this Assignment of Leases, property of Borrower or property of the estate of Borrower, as defined in 11 U.S.C. §541. If any Law exists requiring Lender to take actual possession of the Property (or some action equivalent to taking possession of the Property, such as securing the appointment of a receiver) in order for Lender to "perfect" or "activate" the rights and remedies of Lender as provided in this Agreement, Borrower waives the benefit of such Law. Subject to the terms of this Assignment of Leases and the other Loan Documents, Lender grants to Borrower a license, revocable, as hereinafter provided, to collect and use the Rents subject to the requirements of this Assignment of Leases and the other Loan Documents. Upon the occurrence of any Event of Default, the license granted to Borrower herein will, at Lender's election, be revoked by Lender, and Lender shall immediately be entitled to possession of all Rents collected thereafter (including Rents past due and unpaid) whether or not Lender enters upon or takes control of the Property. Upon such a revocation of the license granted herein, Lender will provide Borrower with written notice of same. Any Rents collected by Borrower from and after the date on which an Event of Default occurred will be held by Borrower in trust for Lender. Lender is hereby granted and assigned by Borrower the right, at its option, upon revocation of the license granted herein, to enter upon the Property in Person, by agent or by court appointed receiver to collect the Rents.

## ARTICLE 3

### BORROWER OBLIGATIONS

3.1 Borrower's Continuing Liability. Notwithstanding this Assignment of Leases, Borrower will faithfully observe, discharge and perform all of its obligations and agreements under the Leases and will remain liable for any obligations undertaken by it pursuant to any Lease. Lender may elect, in its sole discretion, to assume any and all such obligations of Borrower under any Lease by written notice to the tenant under such Lease with a copy to Borrower; provided, however, that Borrower will remain liable for such obligations notwithstanding such election by Lender.

3.2 Indemnity. Borrower hereby agrees to defend, indemnify, reimburse and hold Lender and all Lender Parties harmless of and from any and all Losses that they might incur by reason of or arising from any claims by any tenant under any Lease, except for actions arising solely by reason of Lender's willful misconduct or action taken by Lender subsequent to Lender obtaining record title to, and possession of, the Property.

3.3 Furnish Copies. Borrower will, upon the request of Lender, furnish Lender with a complete list, as of the date of such request, of all Leases and providing such further reasonable detail as may be requested by Lender. Further, if requested, Borrower will deliver to Lender executed or certified copies of all Leases, and all correspondence and memoranda relating thereto. Such requests may be made at any reasonable time. Monthly requests, or more frequent requests if made after the occurrence of an Event of Default will be deemed to be reasonable.

#### ARTICLE 4

##### REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties. Borrower represents and warrants as follows:

4.1.1 Borrower has title to and full right to assign the Leases and the Rents thereunder; and no other assignment of any interest in any of the Leases has been made (except to Lender).

4.1.2 All Leases executed on or before the date hereof are in full force and effect, subject to no appeal, claim, litigation, defense, setoff or counterclaim whatsoever.

4.1.3 There exists no event, condition or occurrence that constitutes, or that with notice or the passage of time could constitute, a breach or default by Borrower or any tenant under any term or condition of the Leases. Borrower hereby covenants and agrees not to do any act that could destroy or impair the security to the Lender of this Assignment of Leases.

#### ARTICLE 5

##### DEFAULT; REMEDIES

5.1 Events of Default. Borrower's failure to perform or observe any term, covenant, agreement or obligation under this Agreement which failure is not cured within fifteen (15) days after written notice from Lender or under any other Loan Document, which failure continues

beyond any applicable notice and cure period, if any, will constitute an event of default (an "Event of Default") under this Assignment of Leases.

5.2 Remedies. At any time after an Event of Default, Lender may, in its discretion and sole option, in addition to any other right or remedy accorded to it under the Loan Documents, avail itself of the following Remedies:

5.2.1 With or without entering and taking possession of the Property, collect, in its own name or in the name of Borrower, the Rents accrued but unpaid and in arrears as of the date of such Event of Default, as well as the Rents that thereafter become due and payable. Borrower hereby irrevocably authorizes and directs the tenants under the Leases, upon receipt of written notice from Lender, to pay to Lender any and all Rents due thereunder without the necessity of any inquiry to Borrower and notwithstanding any claim by Borrower to the contrary. Borrower further agrees that it will facilitate in all reasonable ways Lender's collection of the Rents and will, immediately upon the request of Lender, execute and deliver a written notice to each tenant under the Leases directing such tenant to pay the Rents to Lender. Borrower will have no right or claim against any parties to any Lease who make payment to Lender after receipt of written notice from Lender requesting same.

5.2.2 Take over and assume the management, operation and maintenance of the Property and perform in its own name or in the name of Borrower, all acts necessary and proper, and expend such sums out of the income of the Property as may be necessary in connection therewith, including the right to enter into new Leases, to cancel existing Leases, to alter or amend the terms of existing Leases, to renew existing Leases or to make concessions to the parties thereto.

5.2.3 Endorse as Borrower's attorney-in-fact, Borrower's name on all checks, drafts and similar forms of payment received in payment of the Rents. The aforesaid power of attorney, being for security, will be deemed coupled with an interest and will be irrevocable.

5.2.4 After payment of all proper charges and expenses, including reasonable compensation to such managing agent as Lender may select or employ, and after the accumulation of a reserve to meet taxes, assessments, water rents, fire and liability insurance in requisite amounts, Lender will credit the net proceeds received by it from the Property by virtue of this Assignment of Leases to any amounts due and owing to Lender by Borrower under the terms of the Loan Documents, provided that the manner of application of such proceeds and the items to be credited will be determined in the sole discretion of Lender. Lender will not be accountable for more monies than it actually receives from the Property, nor will it be liable for failure to collect any such proceeds.

5.3 Release of Lender. To the extent permitted by law, Borrower hereby releases any and all claims that it has or might have against Lender arising out of such actions by Lender, unless arising from Lender's fraud or willful misconduct.

5.4 Borrower Cooperation. Borrower will not interfere with or object to Lender's exercise of its rights under this Assignment of Leases, and Borrower will use its best efforts in causing the tenants of the Property to comply with all the terms and conditions of the Leases.

## ARTICLE 6

### PROTECTION OF LENDER

6.1 No Assumption by Lender. Notwithstanding any legal presumption to the contrary, Lender will not be obligated by reason of acceptance of this Assignment of Leases to perform any obligation of Borrower under the Leases. This Assignment of Leases will not place responsibility for the control, care, management, upkeep, operation or repair of all or any part of the Property upon Lender, or make Lender liable or responsible for any negligence in the control, care, management, upkeep, operation or repair of all or any part of the Property resulting in loss or injury or death to any tenant, licensee, employee or other Person or loss of or damage to the Property of any of the foregoing.

6.2 No Waiver; Mortgagee-in-Possession. Nothing in this Assignment will be construed as making Lender a mortgagee-in-possession, or as constituting a waiver or suspension by Lender of its right to enforce payment of the Indebtedness under the terms of the Note and the other Loan Documents.

6.3 Advances by Lender. Lender need not expend its own funds in the exercise of such powers, but if it does, such amounts, together with reasonable attorneys' fees actually incurred and disbursements, will be considered as Advances for and on behalf of Borrower, secured by this Assignment of Leases and also evidenced and secured by the other Loan Documents. Any such Advances shall bear interest at the Default Rate set forth in the Note from the respective dates of any such Advances to the date of repayment in full.

## ARTICLE 7

### GENERAL PROVISIONS

7.1 Termination of Assignment. When the Mortgage has been fully satisfied of record, such satisfaction will release and discharge this Assignment of Leases and effect a reassignment of all Rents to the Person or Persons legally entitled thereto, unless such satisfaction or release expressly provides to the contrary.

7.2 Notices. All Notices permitted or required to be given by any party to the other hereunder will be in writing and given in the manner specified in Section 8.8 of the Loan Agreement.

7.3 Modification. No modification, extension, discharge, termination or waiver of any provision of this Assignment of Leases will be effective unless in writing signed by the party against whom enforcement is sought, and will be effective only in the specific instance for which it is given.

7.4 Binding Effect. This Assignment of Leases will be binding upon the heirs, executors, administrators, successors and assigns of Borrower, subject to the restrictions on any assignment under the Loan Documents, and will inure to the benefit of Lender and its successors and assigns.

7.5 Lender Assignment. Borrower acknowledges and agrees that Lender may assign all or any portion of its rights and/or obligations under this Assignment of Leases to another Person(s), and that such Person(s) will be entitled to exercise all or any portion of Lender's rights hereunder.

7.6 No Third Parties Benefited. This Assignment of Leases is between and for the sole benefit of Borrower and Lender, and Lender's successors and assigns, and creates no rights whatsoever in favor of any other Person and no other Person will have any rights to rely hereon.

7.7 Nonrecourse. This Assignment of Leases is subject to Section 8 of the Note regarding Limited Recourse Obligations, which provisions are incorporated herein by reference.

IN WITNESS WHEREOF, Borrower has caused this Absolute Assignment of Leases and Rents to be duly executed under seal the day and year first above written.

**BORROWERS:**

**CC DESOTO CLINIC, LLC, a Tennessee  
limited liability company**

BY: Alan W. McKinney

**ALAN W. MCKINNEY, Chief Manager**

JAMES L. HIGHSMITH, JR.

KATHRYN H. HIGHSMITH

PAHL M. DAVIS

SHANNON F. DAVIS

WATSON P. REA

STATE OF TENNESSEE

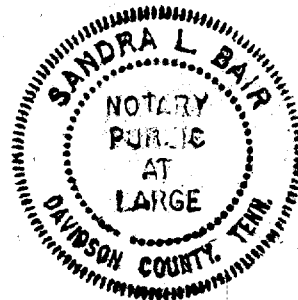
COUNTY OF DAVIDSON

PERSONALLY came and appeared before me, the undersigned authority in and for the said county and state, on this 15<sup>th</sup> day of February, 2002, within my jurisdiction, the within named **ALAN W. MCKINNEY**, whose address is 2636 Elm Hill Pike, Suite 200, Nashville, Tennessee 37214, acknowledged that he is Chief Manager of the within **CC DESOTO, LLC, a Tennessee limited liability company**, and that for and on behalf of said company, and as its act and deed, he executed and delivered the above and foregoing instrument, after first having been duly authorized by said company so to do.

Sandra L. Bair  
Notary Public

My Commission Expires:

November 30, 2002





**BORROWERS:**

P BK 93 PG 112

**CC DESOTO CLINIC, LLC, a Tennessee  
limited liability company**

**BY:** \_\_\_\_\_

**ALAN W. MCKINNEY, Chief Manager**

James L. Highsmith Jr.  
**JAMES L. HIGHSMITH, JR.**

Kathryn H. Highsmith  
**KATHRYN H. HIGHSMITH**

Paul M. Davis  
**PAUL M. DAVIS**

Shannon F. Davis  
**SHANNON F. DAVIS**

Watson P. Rea  
**WATSON P. REA**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

PERSONALLY came and appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2002, within my jurisdiction, the within named **ALAN W. MCKINNEY**, whose address is 2636 Elm Hill Pike, Suite 200, Nashville, Tennessee 37214, acknowledged that he is Chief Manager of the within **CC DESOTO, LLC, a Tennessee limited liability company**, and that for and on behalf of said company, and as its act and deed, he executed and delivered the above and foregoing instrument, after first having been duly authorized by said company so to do.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF N. CAROLINA

COUNTY OF MECKLENBURG

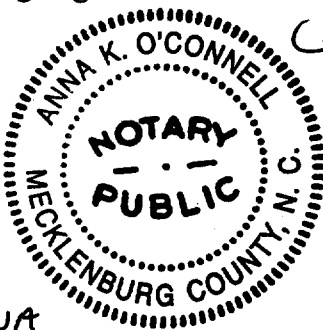
P BK 93 PG 113

PERSONALLY appeared before me, the undersigned authority in and for the said County and State, on this 19<sup>th</sup> day of February, 2002, within my jurisdiction, the within named **JAMES L. HIGHSMITH, JR.**, who acknowledged that he executed and delivered the above and foregoing instrument.

Anna K. O'Connell  
Notary Public

My Commission Expires:

01/03/05



STATE OF N. CAROLINA

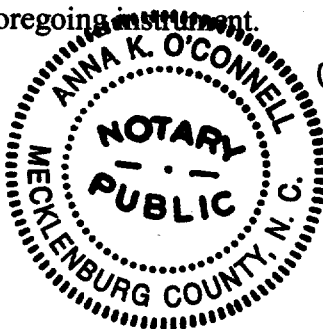
COUNTY OF MECKLENBURG

PERSONALLY appeared before me, the undersigned authority in and for the said County and State, on this 19<sup>th</sup> day of February, 2002, within my jurisdiction, the within named **KATHRYN H. HIGHSMITH**, who acknowledged that she executed and delivered the above and foregoing instrument.

Anna K. O'Connell  
Notary Public

My Commission Expires:

01/03/05



STATE OF N. CAROLINA

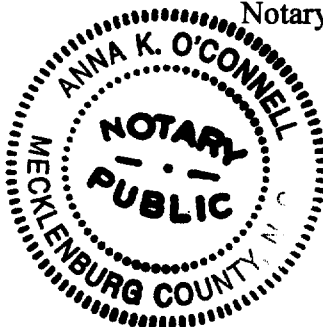
COUNTY OF MECKLENBURG

PERSONALLY appeared before me, the undersigned authority in and for the said County and State, on this 18<sup>th</sup> day of February, 2002, within my jurisdiction, the within named **PAHL M. DAVIS**, who acknowledged that he executed and delivered the above and foregoing instrument.

Anna K. O'Connell  
Notary Public

My Commission Expires:

01/03/05  
STATE OF N. CAROLINA



COUNTY OF MECKLENBURG

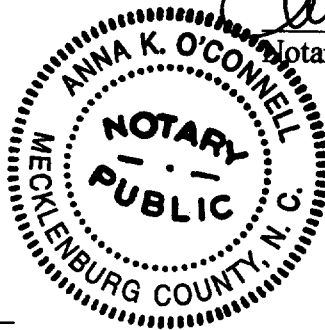
P. BK 93 PG 114

PERSONALLY appeared before me, the undersigned authority in and for the said County and State, on this 18<sup>th</sup> day of February, 2002, within my jurisdiction, the within named **SHANNON F. DAVIS**, who acknowledged that she executed and delivered the above and foregoing instrument.

Anna K. O'Connell  
Notary Public

My Commission Expires:

01/03/05



STATE OF N. CAROLINA

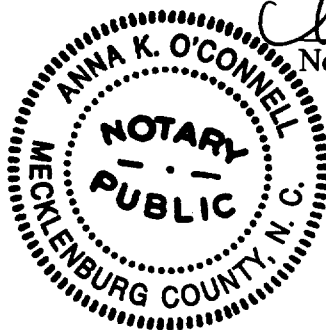
COUNTY OF MECKLENBURG

PERSONALLY appeared before me, the undersigned authority in and for the said County and State, on this 18<sup>th</sup> day of February, 2002, within my jurisdiction, the within named **WATSON P. REA**, who acknowledged that he executed and delivered the above and foregoing instrument.

Anna K. O'Connell  
Notary Public

My Commission Expires:

01/03/05



**EXHIBIT "A"**

P BK 93 PG 115

**Legal Description**

Legal description of 2.83, more or less, acres of land being known as Lot 20, DeSoto-Tenway Subdivision (Plat Book 72, Page 46) and being located in the Southeast quarter of the Northeast quarter of Section 25, Township 1 South, Range 8 West, City of Southaven, DeSoto County, Mississippi:

Beginning at an iron pin (set), said pin being South 2627.19 feet and West 53.00 feet from the Northeast corner of Section 25, Township 1 South, Range 8 West;

Thence South 88 degrees 41 minutes 58 seconds West 400.00 feet to an iron pin (set);

Thence North 01 degrees 16 minutes 34 seconds West 308.60 feet to an iron pin (found) in the South right-of-way line of Tenway Drive;

Thence North 88 degrees 43 minutes 19 seconds East 370.02 feet along said right-of-way to an iron pin (set);

Thence along a curve to the right having a radius of 30.00 feet and a delta angle of 90 degrees 27 minutes 10 seconds and a chord bearing of South 46 degrees 23 minutes 02 seconds East and a chord distance of 42.59 feet to an iron pin (set) in the West right-of-way line of Airways Boulevard;

Thence South 01 degrees 14 minutes 08 seconds East 278.38 feet along said right-of-way to the Point of Beginning containing 2.83, more or less, acres (123,249.5338, more or less, square feet) being subject to all codes, regulations, revision, restrictions, easements and rights-of-way of record.

**TOGETHER WITH** easement to use storm water drainage and storm water detention pond adjoining Lot 18 as established by Plat dated June 7, 2001, recorded at Plat Book 75, Page 28, on July 11, 2001.